

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

MARIA HERNANDEZ, O.B.O.  
L.A., a minor,

Plaintiff,

vs.

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

) CASE NO. 1:10 CV 1295  
)  
)  
) JUDGE DAN AARON POLSTER  
)  
)  
) NUNC PRO TUNC  
) MEMORANDUM OF OPINION  
) AND ORDER  
)  
)

Before the Court is the Report and Recommendation of Magistrate Judge Kathleen B. Burke issued on September 28, 2011 (“R&R”) (**Doc #: 22**). Plaintiff Maria Hernandez, acting on behalf of L.A., her minor son (“Claimant”), seeks judicial review of the decision of Defendant Michael J. Astrue, the Commissioner of Social Security (“Commissioner”), denying Claimant’s application for Supplemental Security Income under Title XVI of the Social Security Act, 42 U.S.C. § 1381 et seq. (Doc #: 1.) In a thorough, well-written R&R, the Magistrate Judge recommends that the Court reverse the Commissioner’s decision and remand the case so that the Administrative Law Judge (“ALJ”) can conduct further fact-finding, evaluation, and analysis concerning Claimant’s failure to follow prescribed treatment. (Doc #: 22.)

On October 12, 2011, the Court issued an order adopting the Magistrate Judge’s R&R based, predominantly, on the fact that the Commissioner had failed to file an objection or a request for extension of time to file one. As the docket shows, however, the Commissioner filed that afternoon a response to the R&R advising the Court that it would not be filing an objection. (Doc #: 23.) Thus, the Court files this *Nunc Pro Tunc* Memorandum of Opinion and Order in order to properly reflect the record.

In short, because the Commissioner has no objection to the R&R, the Court hereby **ADOPTS** the Magistrate's recommendation that the case be **REVERSED** and **REMANDED** to the Commissioner for further findings consistent with the R&R (**Doc #: 22**). Since the parties agree on the disposition of this case and the ruling has not changed, the Court notes that it need not vacate and reissue another judgment entry.

**IT IS SO ORDERED.**

/s/ *Dan A. Polster*    *October 13, 2011*  
**Dan Aaron Polster**  
**United States District Judge**